Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MARCUS P HAYES DC
PO BOX 198
BARKER TX 77413-0198

Respondent Name
VIA METROPOLITAN TRANSIT

Carrier's Austin Representative Box
Box Number 16

MFDR Tracking Number
M4-13-0883-01

MFDR Date Received
DECEMBER 6, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "28 Texas Administrative Code 134.204(a) states that, 'Applicability of this rule is as follows: (5) Specific provisions contained in the Labor Code or the Texas Department of Insurance, Division of Workers' compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by the Centers for Medicare and Medicaid Services (CMS) in administering the Medicare program…' The procedure code 97750-FC, falls into this exception. An FCE is billed and reimbursed in accordance with 28 Texas Administrative Code 134.203(c)(1); however, an FCE is a Division-specific code with a Division-specific modifier (97750-FC) defined as a comprehensive evaluation focusing on measuring the patient's functional abilities (potential for work). CPT Code 97750 (physical performance tests/measurements) is classified as an 'always therapy' code used to evaluate the patient's performance of a specific activity/group of activities (to assess physical capabilities). **Therefore, the FCE is not subject to the Medicare payment provision of a multiple procedure payment reduction for selected therapy services.** Therefore, AI&FT=ATC requests VIA Metropolitan Transit to remit the balance due of $42.39."

Amount in Dispute: $42.39

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The insurance carrier or its agent did not submit a response to the request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 26, 2012	CPT Code 97750-FC	$42.39	$42.39

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.304 sets out the guidelines for Workers' Compensation specific services.

3. 28 Texas Administrative Code §134.302 sets out reimbursement for reimbursement of professional services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 59J – Processed based on multiple or concurrent procedure rules. *Practice expense component for select therapy services reduced by 20% for non-facility and 25% for facility.*
   - 193E – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. *Duplicate Appeal. An appeal of the original audit was previously performed for thse services.*

Issues

1. Did the insurance carrier reimburse according to the fee guideline?
2. Is the requestor entitled to reimbursement?

Findings

1. Per 28 Texas Administrative Code §134.204(a) states, in pertinent part, that, "Applicability of this rule is as follows: (5) Specific provisions contained in the Labor Code or the Texas Department of Insurance, Division of Workers' compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by the Centers for Medicare and Medicaid Services (CMS) in administering the Medicare program." Functional Capacity Evaluations (FCEs), billed as CPT Code 97750-FC, is considered a Division specific code and is not subject to the multiple procedure reduction for selected therapy services; therefore, the respondent has not correctly reimbursed the requestor.
2. In accordance with 28 Texas Administrative Code §134.203(c)(1). Reimbursement for CPT Code 97750-FC, 10 Units is as follows:
   - (54.86 ÷ 34.0376) x $32.43 = $52.27 x 10 units

   The requestor is seeking an additional payment of $42.39.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $42.39.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $42.39 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		September 30, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee***

Dispute Resolution Findings and Decision together with any other required information specified in 28 Texas Administrative Code §141.1(d).

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